

16A C.J.S. Constitutional Law § 797

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Constitutional Law

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PART III. Overview of Protected Personal Rights and Freedoms; Police Power

IX. Personal, Civil, and Political Rights and Freedoms

C. Personal Liberty

3. Right to Travel

b. Particular Applications

§ 797. Other applications of rule

Topic Summary | References | Correlation Table

West's Key Number Digest

West's Key Number Digest, Constitutional Law  1280 to 1282, 1285 to 1288

Various particular statutes, regulations, or official acts have been ruled upon with respect to whether they violate the right to travel.

Various particular statutes, regulations, or official acts have been considered not to be violative of the right to travel,¹ such as statutes restricting a tax exemption to a class of veterans who were legal residents of the state at the time of their entry into, or discharge from, military service,² granting pension credits,³ curtailing loitering and prowling,⁴ and requiring sex offenders to register with the state,⁵ or prohibiting them from living within a prescribed distance of a school.⁶

A statute granting cost-of-living increases to workers' compensation beneficiaries who continued to reside in the state but denying such increases to beneficiaries who are outside the state does not unconstitutionally infringe the right to travel.⁷ However, a statute adjusting benefits of workers' compensation recipients who move out of state

based on the average weekly wage of the state to which recipient moves imposes a substantial penalty upon the recipients' exercise of their right to travel out of state and is invalid.⁸

As a statute requiring an executor to be a resident of the state violates the right to travel and to set up one's residence.⁹

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Footnotes

- 1 **Restrictions on skydiving**
 U.S.—Skydiving Center of Greater Washington, D.C., Inc. v. St. Mary's County Airport Com'n, 823 F. Supp. 1273 (D. Md. 1993).
 Stalking statute
 Wis.—State v. Ruesch, 214 Wis. 2d 548, 571 N.W.2d 898 (Ct. App. 1997).
 Compelling interest shown
 A justification for using length of residence in the state as a factor in evaluating applications for admission to a state university medical school, that it served as a proxy for selecting those candidates likely to return to the state and supply needed medical care to underserved areas of the state, was not only legitimate but also compelling, for purposes of resolving a challenge to the admissions policy as violating the right to travel.
 U.S.—Buchwald v. University of New Mexico School of Medicine, 159 F.3d 487, 130 Ed. Law Rep. 428 (10th Cir. 1998).
- 2 Me.—Lambert v. Wentworth, 423 A.2d 527 (Me. 1980).
 Residency requirement to qualify for partial real estate tax exemption
 Mass.—Sylvester v. Commissioner Of Revenue, 445 Mass. 304, 837 N.E.2d 662 (2005).
- 3 N.Y.—Devereaux v. New York State Teachers' Retirement Bd., 75 A.D.2d 277, 429 N.Y.S.2d 743 (3d Dep't 1980).
- 4 Idaho—State v. Bitt, 118 Idaho 584, 798 P.2d 43 (1990).
- 5 Or.—State v. Wigglesworth, 186 Or. App. 374, 63 P.3d 1185 (2003).
 Tex.—Ex parte Robinson, 80 S.W.3d 709 (Tex. App. Houston 1st Dist. 2002), petition for discretionary review granted, (Nov. 20, 2002) and judgment aff'd, 116 S.W.3d 794 (Tex. Crim. App. 2003).
- 6 Iowa—State v. Willard, 756 N.W.2d 207 (Iowa 2008).
- 7 U.S.—Fisher v. Reiser, 610 F.2d 629 (9th Cir. 1979).
- 8 Alaska—Alaska Pacific Assur. Co. v. Brown, 687 P.2d 264 (Alaska 1984).
- 9 N.Y.—In re Harrison's Estate, 81 Misc. 2d 807, 366 N.Y.S.2d 755 (Sur. Ct. 1974).

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